

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Oscar Lee Sykes, Jr., #310285, former #
138335,

Plaintiff,

vs.

Melanie Huggins in her individual and
official capacity,

Defendant.

C.A. No.: 4:08-04157-RBH

O R D E R

This matter is before the court for review of the Report and Recommendation of United States Magistrate Judge Thomas E. Rogers, III, made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. See Mathews v. Weber, 423 U.S. 261, 270-71 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. See 28 U.S.C. § 636(b)(1).

No objections were filed to the Report and Recommendation [docket #9]. Objections were due to the Report and Recommendation on March 2, 2009. An Order [docket # 13] by the Court was docketed on March 2, 2009 giving plaintiff an extension of time until March 11, 2009 to

respond to the Report and Recommendation. The Order extending the deadline for objections until March 11, 2009 [docket #17] was mailed a second time to the plaintiff on March 13, 2009. To date, no response has been received by the Court. In the absence of objections to the Report and Recommendation of the Magistrate Judge, this court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

After a thorough review of the Report and Recommendation and the record in this case, the court adopts Magistrate Judge Rogers' Report and Recommendation and incorporates it herein. It is therefore

ORDERED that the complaint in this matter is DISMISSED without prejudice and without issuance and service of process. The court concludes that this action fails to state a claim upon which relief may be granted under 28 U.S.C. § 1915(e)(2) and (g) and is therefore deemed a strike under this statute. **IT IS THEREFORE**

ORDERED that the dismissal of this case is deemed a strike pursuant to 28 U.S.C. § 1915(e)(2) and (g).

IT IS SO ORDERED.

s/ R. Bryan Harwell
R. BRYAN HARWELL
United States District Judge

Florence, South Carolina
March 24, 2009